



Final Regulation Agency Background Document

Agency name	Virginia Office of Emergency Medical Services
Virginia Administrative Code (VAC) citation	12 VAC 5-40, 12 VAC 5-31
Regulation title	Virginia Emergency Medical Services Regulations
Action title	Repeal 12 VAC 5-31-5-40, Financial Assistance for Emergency Medical Services, Implement additional provision in 12 VAC 5-31-Regional EMS Council Regulations
Date this document prepared	March 13, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

Financial Assistance - The proposed replacement regulations update the title to reflect actual use for the fund program. The update regulations also reflect current practices and expectations for the committee in the process of its assigned task as identified in § 32.1.111.12 of the Code of Virginia.

Regional EMS Councils - The proposed regulations contains designation criteria, standards of performance, requirements to insure accountability of public and matching funds and requirements for regional emergency medical services (EMS) councils.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The State Health Commissioner, vested with the authority of the State Board of Health pursuant to § 32.1-20 of the Code of Virginia, adopted this as final regulation on July 20, 2007.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Financial Assistance - The Board of Health has the authority to promulgate this regulation under Virginia Code § 32.1-12 and 32.1-111.4. The regulations are consistent with the Board's mandate as set forth in these sections.

Regional EMS Councils - § 32.1-111.11 of the *Code of Virginia* requires the State Board of Health to promulgate regulations governing regional EMS councils.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Financial Assistance - § 32.1-111.12 of the Code of Virginia establishes the Virginia Rescue Squad Assistance Fund (RSAF) for the purpose of providing financial assistance to rescue squads and other emergency medical services organizations in the Commonwealth, of providing requisite training for emergency medical services personnel, and of purchasing equipment needed by such rescue squads and organizations. These items support the effective integration of personnel, transportation, communications, facilities, and education and training into a unified system that provides quality emergency medical care, thereby decreasing morbidity, mortality and hospitalization.

Regional EMS Councils - The intent of these regulations aligns with the Virginia Department of Health's mission of promoting and protecting the health of Virginians by reducing death and disability resulting from sudden or serious injury and illness in the Commonwealth. This is accomplished through planning and development of a comprehensive, coordinated regional emergency medical services (EMS) system; and provision of other technical assistance and support to enable the EMS community to provide the highest quality emergency medical care possible to those in need.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Financial Assistance - The proposed regulatory action will clarify the regulations governing the Rescue Squad Assistance fund administration and the Financial Assistance Review Committee. It will incorporate changes in the EMS financial assistance program through consistent application of standards and administration of the grant process, New and revised regulations are essential to provide continued safe, efficient and quality emergency medical care to all citizens and visitors of the Commonwealth.

Regional EMS Councils - The new substantive provisions include the following items: purpose of designation of regional EMS councils, compliance with regulations, requirements for regional EMS council designation, the designation process, the application process, inspection procedures, designation approval, designation periods, requesting undesignation, exemption and variance procedures, the right to and enforcement actions, complaints and investigative processes, the composition and governing bodies of designated regional councils, regional EMS plans, regional trauma triage plans, regional training plans, regional mass casualty incident plans, regional medical protocols, regional hospital diversion plans, regional medical direction committee, regional medical director, ALS coordinator endorsement, financial assistance to emergency medical services, base funding for designated regional EMS councils, matching funds, performance based contract for services and the accountability for public funds.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

Financial Assistance - The proposed regulatory action would provide the administration of the Rescue Squad Assistance grant programs through specifications of policies and procedures for the qualification for EMS financial assistance to purchase the needed equipment, for the provision of training programs, EMS recruitment and retention projects and other specified initiatives. Revision and reorganization of previously issued guidance documents would be included to update the administration of EMS financial assistance programs.

These regulatory actions pose no disadvantages to the public or the Commonwealth.

Regional EMS Councils - The proposed regulations provides oversight of the regional EMS programs through specification of policies and procedures for services provided to the community, EMS providers, EMS agencies, and local governments. The minimum prerequisites for regional EMS council's services will be defined by regulations.

These regulatory actions pose no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section	Requirement at	What has changed	Rationale for change
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number	proposed stage		
2330 (B) (1) (b)	Designation of a regional EMS council	Add wording to section	Clarification.
2330 (E)	Scope of Services Plan	Removed the wording "plan" from title and description	The description of this section is a document describing the qualifications of the applicant.
* 2330 (B) (1) (j)	Locality Support	Removed entire section.	The proposed regulations allow for OEMS to verify any and all submitted information. Redundant requirement for applying entity.
* 2330 (B) (1) (h)	Policies and guidelines	Added language	To further clarify the implementation and revision date of document.
* 2560 (4)	Enforcement actions	Added language for issuance of civil penalties as identified in § 32.1-111.4 of the Code of Virginia.	To include current Code of Virginia Language.
* 2690	Regional training plan	Removing entire section	Not required by the Code of Virginia, can be addressed through contract.
* 2700	Regional mass casualty plan	Removing entire section	Not required by the Code of Virginia, can be addressed through contract.
* 2710	Regional medical protocols	Removing entire section	Not required by the Code of Virginia, can be addressed through contract.
* 2720	Regional hospital diversion plan	Removing entire section	Not required by the Code of Virginia, can be addressed through contract.
* 2730	Regional medical direction committee	Removing entire section	Not required by the Code of Virginia, can be addressed through contract.
* 2740	Regional medical director	Removing entire section	Not required by the Code of Virginia, can be addressed through contract.
* 2750	ALS coordinator endorsement	Removing entire section	Not required by the Code of Virginia, can be addressed through contract.
2760	Financial assistance for emergency medical services	Change number of section to 2700	Removal of previous sections
2770	Base funding of designated regional EMS councils	Change number of section to 2710.	Removal of previous sections

* 2780	Matching funds	Change number of section to 2720. Add language to recognize in-kind services	In-kind services may be used to off-set office costs i.e. rent, utilities, etc.)
* 2790	Performance-based contract for service	Change number of section to 2730, adding language in paragraph B referencing the Cod of Virginia.	Identifies reference for this section.
* 2800	Accountability for public funds	Change number of section to 2740, change wording in paragraph D	Allows decision by OEMS based on performance.
* 2900	Awards	Removes paragraph 2	Allows for discretion of OEMS in awards amounts to approved applicants for RSAF funds based on demonstrated need.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Regional Director's Group	12-VAC-5-31-2330, B, 1, ii: Add "consistent with these regulations" to the end of this section to clarify the source of future standards.	Agree with request.
Regional Director's Group	12-VAC-5-31-2330, B, 1, v: Change "plan" to "statement" to clarify that the Scope of Services is not a plan but rather a document describing the qualifications of the applicant.	Agree to remove the terminology "plan" in the title as well as in the beginning of the explanation.
Regional Director's Group	12-VAC-5-31-2330, B, 1, viii: After "must show" add "revision date of" to clarify that the intent of this regulation is to have council policies and guidelines that include a modification page or other indication of <i>when</i> previous document revisions were made and not a collection comparing language of all past policies or guidelines.	Agree with request.
Regional Director's Group	12-VAC-5-31-2330, B, 1, x: The Virginia Regional Directors Group feel localities should have an opportunity to submit comments regarding an application for EMS	OEMS agrees to remove this section

	<p>Council designation, but not require them to do so. Recommend substitute wording for this section as follows: “x. Locality Support - A copy of notification provided to each city and county in the applicant’s proposed geographic area within 120 days of the date of the application that the organization or person is seeking a three-year regional EMS council designation and requesting optional local government comment regarding the applicant’s abilities to the Office of EMS.”</p>	
Regional Director’s Group	<p>12-VAC-5-31-2330, B, 2: Recommend to delete this item as it is duplicative of directory requested in 5-31-2330, B, 1, ix and otherwise insignificant in a region’s application to manage a region designated by the Board of Health.</p>	<p>OEMS disagrees with comments – will maintain proposed language. Hospital catchment areas may not correspond with proposed designated regional council service area(s). The Directory is only a listing and does not define catchment area(s).</p>
Regional Director’s Group	<p>12-VAC-5-31-2330, B, 4: Add to the end, “if applicable” to allow for an applicant which has not previously performed as a regional EMS council.</p>	<p>OEMS disagrees with comments – will maintain proposed language. The suggested wording does not change the intent of this section. If no prior performance as a designated regional council exists, it cannot be evaluated.</p>
Regional Director’s Group	<p>12-VAC-5-31-2680 through 5-31-2720: Recommend deletion. Specific plans, other than the regional EMS plan required by Code, may be required by OEMS through its performance based contract with a regional council (5-31-2790), but the need for specific plans may vary over time and should not be locked in regulation.</p>	<p>OEMS agrees to keep the Regional EMS Plan and the Regional Trauma Triage Plan as they are identified as such in the <i>Code of Virginia</i>.</p>
Regional Director’s Group	<p>12-VAC-5-31-2780: After “monetary” add “and qualified in-kind services” as an allowable match, and add language that would allow OEMS to develop a list of qualified in-kind services of items that would normally be required to operate an office.</p>	<p>OEMS agrees to change wording to read “and/or in-kind services as approved by the Office of EMS”.</p>
Regional Director’s Group	<p>12-VAC-5-31-2795, D: Include “The OEMS may require” an independent audit upon change of Executive Director which would allow</p>	<p>OEMS agrees with changes.</p>

	<p>discretion by the state in cases where financial issues are a concern but would otherwise not obligate a council to incur expensive and duplicative auditing upon routine Executive Director changes. Also consider that if the Office of EMS does require an audit when the Council's Executive Director leaves, and the Executive Director has no access to Council funds during the course of execution of duties associated with her or her role in the council operations, then the Office of EMS will fund the additional audit.</p>	
<p>Regional Director's Group</p>	<p>12-VAC-5-31-2900, C: Amend to allow advance payment to awardees. Regional councils, as well as many other small rescue squads and other potential awardees, do not necessarily maintain surplus cash balances to advance funds on large grant projects. The ability for a full or partial advanced payment from grant funds would facilitate large project purchases and not unduly stress a small organization's finances. Such advances could be reconciled based on actual costs demonstrated by invoices.</p>	<p>OEMS agrees to removal of 12 VAC 5-31-2900 (C) (2)</p>

Enter any other statement here

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

All changes have been previously identified in "Changes made since the proposed stage".

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Financial Assistance - These regulations are required under § 32.1-111.12 of the Code of Virginia. Adoption of the intended regulations will establish minimum standards for EMS agency financial assistance and to continue a process that provides financial assistance to qualified applicants. There are no known alternatives that would better protect the public health safety and welfare of Virginians.

Regional EMS Councils - These regulations are required under § 32.1-111.1 of the Code of Virginia. Adoption of the intended regulations will establish minimum standards for regional EMS councils that reflect currently-accepted and effective approaches. Procedures for agency designation and enforcement of the regulations will be developed. Each of these elements is essential components to an EMS system in order to guarantee minimum statewide standards in the Commonwealth. There are no known alternatives that would better protect the public health and safety of Virginians.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Financial Assistance - These regulations will greatly benefit Virginia's families by ensuring a higher level of emergency medical services statewide. Developing a comprehensive, coordinated statewide emergency medical services system is essential in reducing death and disability resulting from sudden or serious, injury and illness in the Commonwealth.

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